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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,516	02/05/2004	Frederick M. Mako	MAKO-12 CONT	6541

7590
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02/27/2008

EXAMINER

MAYES, MELVIN C

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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02/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/773,516</p>	<p>Applicant(s) MAKO ET AL.</p>	
	<p>Examiner Melvin C. Mayes</p>	<p>Art Unit 1791</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 08 February 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Melvin C. Mayes/
Primary Examiner, Art Unit 1791

Continuation of 11. does NOT place the application in condition for allowance because: of the reasons as set forth in the Final Rejection. Applicant's specification does not describe taper between ceramic bodies 10 as used to control joint thickness but to "insure that the ceramic bodies are aligned properly with respect to each other and to the joint" (pg. 5). The specification discloses that "Tapers are NOT required for the joining work, but they are an enhancement" (pg. 13); however, this is no indication that tapering is used to control joint thickness to achieve joint strength between ceramic bodies 10. If tapering was "a key feature" and "extremely important," tapering would not be described by Applicant as "NOT required." Applicant's arguments comparing tapering to lap jointing tubes is not relevant because the claims are not directed to inserting one tube in another tube as in the embodiment of Fig. 2. The suggestion of DiChiara, Jr. to angle (taper) the surfaces of ceramic members to be bonded to increase the surface area of the joint and thus joint strength is sufficient motivation to taper the end faces of the ceramic bars of JP 6-256067 or the ceramic composite bars of Barton et al. Regardless of the particular reason for tapering, tapering is clearly suggested by DiChiara, Jr. Applicants arguments seem to suggest that Applicant is using taper in the area of the joint for the same reason as suggested by DiChiara, Jr., that reason being to increase joint strength. Regarding the disclosure in the specification on pages 6 with respect to capture tapers and stronger joints by thin coating of slurry, this relates to the particular embodiment of a joint consisting of a butt plus lap joint with a collar having a taper and tubes machined with outer tapers. The claims are not limited to such an embodiment. Even further, Applicant is arguing limitations not claimed, capture tapers with the angle of the interior body inclined at a lesser angle than the exterior body which results in a region of optimal thickness where the slurry is polymerized in an optimal manner.